

	U.S. ENVIRONMENTAL PROTECTION AGENCY Cooperative Agreement	GRANT NUMBER (FAIN): 01J13201		DATE OF AWARD 03/16/2016	
		MODIFICATION NUMBER: 0		MAILING DATE 03/23/2016	
		PROGRAM CODE: V			
		TYPE OF ACTION New		PAYMENT METHOD:	
RECIPIENT TYPE: Indian Tribe		Send Payment Request to: Las Vegas Finance Center FAX # 702-798-2423			
RECIPIENT: Confederated Tribes and Bands of the Yakama Nation P.O. Box 151 Toppenish, WA 98948-0151 EIN: 91-0576806		PAYEE: Confederated Tribes and Bands of the Yakama Nation P.O. Box 151 Toppenish, WA 98948-0151			
PROJECT MANAGER Paul Ward P.O. Box 151 Toppenish, WA 98948-0151 E-Mail: warp@yakamafish-nsn.gov Phone: 509-865-5121 EXT. 6363		EPA PROJECT OFFICER Ricardo Solis 1200 Sixth Avenue, Suite 900, ECL-110 Seattle, WA 98101 E-Mail: solis.ricardo@epa.gov Phone: 206-553-2593		EPA GRANT SPECIALIST Kathy Tsing-Choy Grants and Interagency Agreements Unit, OMP-173 E-Mail: tsing-choy.kathy@epa.gov Phone: 206-553-4688	
PROJECT TITLE AND DESCRIPTION Yakama Nation oversight of CERCLA actions at the Portland Harbor Superfund Site Cooperative agreement for Government-to-Government participation of the Yakama Nation in all phases of CERCLA activities at the Portland Harbor Superfund site leading to successful cleanup, restoration and delisting from the NPL. This assistance agreement is partially funded.					
BUDGET PERIOD 03/16/2016 - 12/31/2018		PROJECT PERIOD 03/16/2016 - 12/31/2018		TOTAL BUDGET PERIOD COST \$176,000.00	
				TOTAL PROJECT PERIOD COST \$176,000.00	
NOTICE OF AWARD					
<p>Based on your Application dated 03/02/2016 including all modifications and amendments, the United States acting by and through the US Environmental Protection Agency (EPA) hereby awards \$88,000. EPA agrees to cost-share <u>100.00%</u> of all approved budget period costs incurred, up to and not exceeding total federal funding of \$88,000. Recipient's signature is not required on this agreement. The recipient demonstrates its commitment to carry out this award by either: 1) drawing down funds within 21 days after the EPA award or amendment mailing date; or 2) not filing a notice of disagreement with the award terms and conditions within 21 days after the EPA award or amendment mailing date. If the recipient disagrees with the terms and conditions specified in this award, the authorized representative of the recipient must furnish a notice of disagreement to the EPA Award Official within 21 days after the EPA award or amendment mailing date. In case of disagreement, and until the disagreement is resolved, the recipient should not draw down on the funds provided by this award/amendment, and any costs incurred by the recipient are at its own risk. This agreement is subject to applicable EPA regulatory and statutory provisions, all terms and conditions of this agreement and any attachments.</p>					
ISSUING OFFICE (GRANTS MANAGEMENT OFFICE)			AWARD APPROVAL OFFICE		
ORGANIZATION / ADDRESS EPA Region 10 Mail Code: OMP-173 1200 Sixth Avenue, Suite 900 Seattle, WA 98101			ORGANIZATION / ADDRESS U.S. EPA, Region 10 Office of Environmental Cleanup 1200 Sixth Avenue, Suite 900 Seattle, WA 98101		
THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY					
Digital signature applied by EPA Award Official Paula VanHaagen - Acting Manager - Grants and Interagency Agreements Unit					DATE 03/16/2016

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FUNDS	FORMER AWARD	THIS ACTION	AMENDED TOTAL
EPA Amount This Action	\$	\$ 88,000	\$ 88,000
EPA In-Kind Amount	\$	\$	\$ 0
Unexpended Prior Year Balance	\$	\$	\$ 0
Other Federal Funds	\$	\$	\$ 0
Recipient Contribution	\$	\$	\$ 0
State Contribution	\$	\$	\$ 0
Local Contribution	\$	\$	\$ 0
Other Contribution	\$	\$	\$ 0
Allowable Project Cost	\$ 0	\$ 88,000	\$ 88,000

Assistance Program (CFDA)	Statutory Authority	Regulatory Authority
66.802 - Superfund State Political Subdivision and Indian Tribe Site Specific Cooperative Agreements	CERCLA: Sec. 104(d)(1)	2 CFR 200 2 CFR 1500 40 CFR 33 and 40 CFR 35 Subpart O

[illegible]

Budget Summary Page: PORTLAND HARBOR SITE

Table A - Object Class Category (Non-construction)	Total Approved Allowable Budget Period Cost
1. Personnel	\$53,607
2. Fringe Benefits	\$15,583
3. Travel	\$2,800
4. Equipment	\$0
5. Supplies	\$3,200
6. Contractual	\$66,500
7. Construction	\$0
8. Other	\$7,450
9. Total Direct Charges	\$149,140
10. Indirect Costs: % Base	\$26,860
11. Total (Share: Recipient 0.00 % Federal 100.00 %.)	\$176,000
12. Total Approved Assistance Amount	\$176,000
13. Program Income	\$0
14. Total EPA Amount Awarded This Action	\$88,000
15. Total EPA Amount Awarded To Date	\$88,000

Administrative Conditions

1. General Terms and Conditions - Effective 01/27/2016

The recipient agrees to comply with the current EPA general terms and conditions available at:

http://www.epa.gov/sites/production/files/2016-01/documents/general_tc_as_of_1-27-16.pdf.

These terms and conditions are in addition to the assurances and certifications made as part of the award and terms, conditions or restrictions cited below.

The EPA repository for the general terms and conditions by year can be found at:

<http://www2.epa.gov/grants/grant-terms-and-conditions>.

2. General Terms and Conditions - Consultant Cap - Additional Information

In addition to the General Terms and Conditions #6 "Consultant Cap", as of January 1, 2016, the limit is \$614.48 per day \$76.81 per hour.

NOTE: For future years' limits, the recipient may find the annual salary for Level IV of the Executive Schedule on the following Internet site: <http://www.opm.gov/oca>. Select "Salary and Wages", and select "Rates of Pay for the Executive Schedule". The annual salary is divided by 2087 hours to determine the maximum hourly rate, which is then multiplied by 8 to determine the maximum daily rate.

3. General Terms and Conditions – Cybersecurity

The recipient agrees to comply with the current EPA general terms and conditions "Cybersecurity". The terms and conditions can be found on the EPA Grants Terms and Conditions Website.

For STATE:

http://www2.epa.gov/sites/production/files/2015-07/documents/state_grant_cyber_security_condition.pdf.

For TRIBE:

http://www2.epa.gov/sites/production/files/2015-07/documents/tribal_grant_cyber_security_condition.pdf.

For Other Recipients:

http://www2.epa.gov/sites/production/files/2015-07/documents/cyber_security_grant_condition_for_other_recipients.pdf.

4. General Terms and Conditions – Final Federal Financial Report (FFR) – Region 10 Requirement "Annual and Final Report"

Pursuant to 2 CFR 200.327 and 200.343, EPA recipients must submit an annual and final Federal Financial Report (FFR, SF-425). The annual report is due within 30 days after the end of each specified reporting period and the final report is due within 90 calendar days after the end of the project period.

The form is available on the internet at: <http://www2.epa.gov/financial/forms>. All FFRs must be submitted to the Las Vegas Finance Center (LVFC) via email LVFC-grants@epa.gov or fax at 702-798-2423.

The LVFC will make adjustments, as necessary, to obligated funds after reviewing and accepting a final Federal Financial Report. Recipients will be notified and instructed by EPA if they must complete any additional forms of the closeout of the assistance agreement.

5. General Terms and Conditions - Indirect Costs for States and Tribal

The cost principles of 2 CFR 200 Subpart E are applicable, as appropriate, to this award.

In addition to the General Terms and Conditions "Indirect Cost Rate Agreements", if the recipient does not have a previously established indirect cost rate, it agrees to prepare and submit its indirect cost rate proposal in accordance with 2 CFR 200 Appendix VII.

For State Agencies

The recipient must send its proposal to its cognizant federal agency within six (6) months after the close of the governmental unit's fiscal year. If EPA is the cognizant federal agency, the state recipient must send its indirect cost rate proposal within six (6) months after the close of the governmental unit's fiscal year to:

Regular Mail

Financial Analysis and Rate Negotiation Service Center
Office of Acquisition Management
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW, MC 3802R
Washington, DC 20460

Mail Courier (e.g. FedEx, UPS, etc.)

Financial Analysis and Rate Negotiation Service Center
Office of Acquisition Management
US Environmental Protection Agency
1300 Pennsylvania Avenue, NW, 6th floor
Bid and Proposal Room Number 61107
Washington, DC 20004

For Indian Tribe

If the recipient does not have a previously established indirect cost rate, the recipient must submit their indirect cost rate proposals to:

National Business Center
Indirect Cost Services
U.S. Department of the Interior
2180 Harvard Street, Suite 430
Sacramento, CA 95815-3317

The recipient agrees to comply with the audit requirements in accordance with 2 CFR 200 Subpart F.

6. Expired Indirect Cost Rate Agreement

The indirect cost rate agreement on file with EPA expires/d **09/30/2015**. In order to charge for indirect costs beyond that date, we must have a copy of an approved agreement in our files. If you have not yet received an approval of an indirect cost rate from your cognizant agency, please submit a copy within 30 days of approval to the EPA Region 10. If you have an approved rate agreement, please provide a copy with the signed Assistance Agreement.

Please send the indirect cost rate documentation to **EPA Region 10, Grants Administration Unit, 1200 Sixth Avenue, Suite 900, Mailcode: OMP-173, Seattle, WA 98101** or **FAX to (206) 553-4957**.

7. UTILIZATION OF SMALL, MINORITY AND WOMEN'S BUSINESS ENTERPRISES (MBE/WBE)

GENERAL COMPLIANCE, 40 CFR, Part 33

The recipient agrees to comply with the requirements of EPA's Disadvantaged Business Enterprise (DBE) Program for procurement activities under assistance agreements, contained in 40 CFR, Part 33.

REPORTING PROVISION

MBE/WBE reporting is required annually for assistance agreements where there are funds budgeted for procuring construction, equipment, services and supplies, including funds budgeted for direct procurement by the recipient or procurement under subawards or loans in the "Other" category, that exceed the threshold amount of \$150,000, including amendments and/or modifications.

Based on EPA's review of the planned budget, this award does not meet the condition above and is not

subject to the reporting requirements of the Disadvantaged Business Enterprise (DBE) Program. However, if during the performance of the award the total of all funds expended for direct procurement by the recipient and procurement under subwards or loans in the "Other" category exceeds \$150,000, annual reports will be required in accordance with the reporting paragraph below and you are required to notify your grant specialist for additional instructions.

The recipient also agrees to request prior approval from EPA for procurements that may activate DBE Program reporting requirements.

This provision represents an approved deviation from the MBE/WBE reporting requirements as described in 40 CFR, Part 33, Section 33.502; however, the other requirements outlined in 40 CFR Part 33 remain in effect, including the Good Faith Efforts requirements as described in 40 CFR Part 33 Subpart C and Fair Share Objectives negotiation as described in 40 CFR Part 33 Subpart D and explained below.

MBE/WBE REPORTING, 40 CFR, Part 33, Subpart E

When required, MBE/WBE reports must be submitted annually. The recipient agrees to complete and submit a "MBE/WBE Utilization Under Federal Grants, Cooperative Agreements and Interagency Agreements" report (EPA Form 5700-52A) on an annual basis. All procurement actions are reportable, not just that portion which exceeds \$150,000.

When completing the annual report, recipients are instructed to check the box titled "annual" in section 1B of the form. For the final report, recipients are instructed to check the box indicated for the "last report" of the project in section 1B of the form. Annual reports are due by October 30th of each year. Final reports are due by October 30th or 90 days after the end of the project period, whichever comes first.

The reporting requirement is based on total procurements. Recipients with expended and/or budgeted funds for procurement are required to report annually whether the planned procurements take place during the reporting period or not. If no budgeted procurements take place during the reporting period, the recipient should check the box in section 5B when completing the form.

The current EPA Form 5700-52A can be found at the EPA Office of Small Business Program's Home Page at http://www.epa.gov/osbp/dbe_reporting.htm

SIX GOOD FAITH EFFORTS, 40 CFR, Part 33, Subpart C

Pursuant to 40 CFR, Section 33.301, the recipient agrees to make the following good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, and to require that sub-recipients, loan recipients, and prime contractors also comply. Records documenting compliance with the six good faith efforts shall be retained:

- (a) Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government recipients, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
- (b) Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.
- (c) Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For Indian Tribal, State and local Government recipients, this will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.
- (d) Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.
- (e) Use the services and assistance of the SBA and the Minority Business Development Agency of the Department of Commerce.

(f) If the prime contractor awards subcontracts, require the prime contractor to take the steps in paragraphs (a) through (e) of this section.

CONTRACT ADMINISTRATION PROVISIONS, 40 CFR, Section 33.302

The recipient agrees to comply with the contract administration provisions of 40 CFR, Section 33.302.

BIDDERS LIST, 40 CFR, Section 33.501(b) and (c)

Recipients of a Continuing Environmental Program Grant or other annual reporting grant, agree to create and maintain a bidders list. Recipients of an EPA financial assistance agreement to capitalize a revolving loan fund also agree to require entities receiving identified loans to create and maintain a bidders list if the recipient of the loan is subject to, or chooses to follow, competitive bidding requirements. Please see 40 CFR, Section 33.501 (b) and (c) for specific requirements and exemptions.

FAIR SHARE OBJECTIVES, 40 CFR, Part 33, Subpart D

1. For Grant Awards \$250,000 or Less

This assistance agreement is a Technical Assistance Grant (TAG); or the award amount is \$250,000 or less; or the total dollar amount of all of the recipient's financial assistance agreements from EPA in the current Federal fiscal year is \$250,000 or less. Therefore, the recipient of this assistance agreement is exempt from the fair share objective requirements of 40 CFR, Part 33, Subpart D, and is not required to negotiate fair share objectives/goals for the utilization of MBE/WBEs in its procurements.

2. For Recipients Accepting Goals

A recipient must negotiate with the appropriate EPA award official, or his/her designee, fair share objectives for MBE and WBE participation in procurement under the financial assistance agreements.

In accordance with 40 CFR, Section 33.411 some recipients may be exempt from the fair share objectives requirements as described in 40 CFR, Part 33, Subpart D. Recipients should work with their DBE coordinator, if they think their organization may qualify for an exemption.

Accepting the Fair Share Objectives/Goals of Another Recipient

The dollar amount of this assistance agreement, or the total dollar amount of all of the recipient's financial assistance agreements in the current federal fiscal year from EPA is \$250,000, or more. The recipient accepts the applicable MBE/WBE fair share objectives/goals negotiated with EPA. The Region 10 fair share objectives/goals can be found: http://www.epa.gov/osbp/pdfs/r10_fair_share_goals.pdf.

By signing this financial assistance agreement, the recipient is accepting the fair share objectives/goals and attests to the fact that it is purchasing the same or similar construction, supplies, services and equipment, in the same or similar relevant geographic buying market.

Negotiating Fair Share Objectives/Goals, 40 CFR, Section 33.404

The recipient has the option to negotiate its own MBE/WBE fair share objectives/goals. If the recipient wishes to negotiate its own MBE/WBE fair share objectives/goals, the recipient agrees to submit proposed MBE/WBE objectives/goals based on an availability analysis, or disparity study, of qualified MBEs and WBEs in their relevant geographic buying market for construction, services, supplies and equipment.

The submission of proposed fair share goals with the supporting analysis or disparity study means that the recipient is **not** accepting the fair share objectives/goals of another recipient. The recipient agrees to submit proposed fair share objectives/goals, together with the supporting availability analysis or disparity study, to the Regional MBE/WBE Coordinator within 120 days of its acceptance of the financial assistance award. EPA will respond to the proposed fair share objective/goals within 30 days of receiving the submission. If proposed fair share objective/goals are not received within the 120 day time frame, the recipient may not expend its EPA funds for procurements until the proposed fair share objective/goals are submitted.

3. For Recipients with Established Goals

The recipient must negotiate with the appropriate EPA award official, or his/her designee, fair share

objectives for MBE and WBE participation in procurement under the financial assistance agreements.

In accordance with 40 CFR, Section 33.411 some recipients may be exempt from the fair share objectives requirements described in 40 CFR, Part 33, Subpart D. Recipients should work with their DBE coordinator, if they think their organization may qualify for an exemption.

Current Fair Share Objective/Goal

The dollar amount of this assistance agreement or the total dollar amount of all of the recipient's financial assistance agreements in the current federal fiscal year from EPA is \$250,000, or more. The Region 10 fair share objectives/goals can be found: http://www.epa.gov/osbp/pdfs/r10_fair_share_goals.pdf.

Negotiating Fair Share Objectives/Goals

In accordance with 40 CFR, Part 33, Subpart D, established goals/objectives remain in effect for three fiscal years unless there are significant changes to the data supporting the fair share objectives. The recipient is required to follow requirements as outlined in 40 CFR Part 33, Subpart D when renegotiating the fair share objectives/goals.

Region 10 DBE Coordinator

Andrea Bennett at (206) 553-1789 or email: Bennett.Andrea@epa.gov. The coordinator can answer any MBE/WBE reporting questions you may have. MBE/WBE reports should be sent to the EPA Region 10, Grants and Interagency Agreements Unit, 1200 Sixth Avenue, Suite 900, OMP-173, Seattle, WA 98101 or FAX to (206) 553-4957.

8. Partial Funding

This agreement is being partially funded by EPA in the amount shown on page 2 under "EPA Funding Information." The recipient understands that additional EPA funds may be awarded on this assistance agreement, subject to availability of additional appropriated funds. EPA's approval of the work plan, budget, and project/budget periods does not constitute an EPA commitment to provide funds in excess of the amount currently funded in this agreement.

If this agreement includes cost share/match based on obtaining full EPA funding, and EPA is not able to fully fund its portion of the total project costs, the recipient has the option of reducing its cost share/match, as long as the reduction is not below the minimum statutory or programmatic required cost share/match. The recipient must submit its request for reduction to the EPA Project Officer, since work plan and budget revisions may be necessary.

Programmatic Conditions

1. Quarterly Performance Reports

The recipient shall submit quarterly performance reports, which are due 60 calendar days after the end of each Federal fiscal quarter. (Federal fiscal quarters end the last day of March, June, September, and December.) Reports shall be submitted to the EPA Project Officer and may be provided electronically.

In accordance with 40 CFR Part 35.6650, as appropriate, the recipient agrees to submit performance reports that include brief information on each of the following areas:

- (a) an explanation of work accomplished during the reporting period, delays, or other problems, if any, and a description of the corrective measures that are planned. For pre-remedial Cooperative Agreements, the report must include a list of the site-specific products completed and the estimated number of technical hours spent to complete each product.
- (b) a comparison of the percentage of the project completed to the project schedule, and an explanation of significant discrepancies.
- (c) a comparison of the estimated funds spent to date to planned expenditures and an explanation of significant discrepancies. For remedial, enforcement, and removal reports, the comparison must be on a per task basis.

(d) an estimated of the time and funds needed to complete the work required in the Cooperative Agreement, a comparison of that estimate to the time and funds remaining, and a justification for any increase.

In addition to the quarterly performance reports, the recipient shall immediately notify the EPA Project Officer of developments that have a significant impact on the award-supported activities. In accordance with 40 CFR Part 35.6655, as appropriate, the recipient agrees to inform the EPA Project Officer as soon as problems, delays or adverse conditions become known which will materially impair the ability to meet the outputs/outcomes specified in the assistance agreement work plan. This notification shall include a statement of the action taken or contemplated, and any assistance needed to resolve the situation.

2. Final Performance Report

In addition to the periodic performance reports, the recipient shall submit a final performance report, which is due 90 calendar days after the expiration or termination of the award. The report shall be submitted to the EPA Project Officer and may be provided electronically. The report shall generally contain the same information as in the periodic reports, but should cover the entire project period. If inappropriate, the EPA Project Officer may waive the requirement for a final performance report after completion of the project.

3. Revisions to the Site Budgets (ONLY apply to multiple Sites funded)

Each site has a separate budget. To move costs between site budgets (i.e. from X to Y), the recipient must formally request that the budgets be changed and provide revised budgets for both sites and revised scope of work if required. This revision must be approved via amendment to this agreement.

4. Work Plan

Work under this agreement should be completed in accordance with the approved work plans submitted with the applications dated **03/02/2016**.

5. EPA Substantial Involvement

EPA will be substantially involved in this project by providing oversight in the recipients abilities to implement and sustain CERCLA to include the following activities:

- a. Planning
- b. Document Review
- c. Public Information

6. Competency of Organizations Generating and/or Using Environmental Measurement Data

In accordance with Agency Policy Directive Number FEM-2012-02, Policy to Assure the Competency of Organizations Generating Environmental Measurement Data under Agency-Funded Assistance Agreements, recipient shall maintain competency for the duration of the project period of this agreement and this will be documented during the annual reporting process. A copy of the Policy is available online at http://www.epa.gov/fem/lab_comp.htm or a copy may also be requested by contacting the EPA Project Officer for this award.

Federal Assistance Agreement Funds Up To \$200,000

Recipient agrees that if the total federal funding obligated on this award exceeds \$200,000 (resulting from subsequent amendments to this agreement) and will involve the use or generation of environmental data it will (unless it has otherwise done so) demonstrate competency prior to carrying out any activities involving the generation or use of environmental data under this agreement.

Federal Assistance Agreement Funds Exceed or Expect to Exceed \$200,000

Recipient agrees, by entering into this agreement, that it has demonstrated competency prior to award, or alternatively, where a pre-award demonstration of competency is not practicable. Recipient agrees to submit documentation and demonstrate competency prior to carrying out any activities under the award

involving the generation or use of environmental data.

R10 Quality Assurance Team Contact: Donald M. Brown at (206) 553-0717 or email:
brown.donaldM@epa.gov.

END OF DOCUMENT